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HOUSE BILL 561

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Dani ce Pi craux

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

**RELATING TO HEALTH CARE; PROVIDING FOR THE CONSOLIDATED
PURCHASE OF CERTAIN PUBLIC HEALTH CARE PROGRAMS; CREATING THE
HEALTH CARE PURCHASING AUTHORITY; AMENDING, REPEALING, ENACTING
AND RECOMPILING SECTIONS OF THE NMSA 1978; MAKING AN
APPROPRIATION.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. A new section of the Health Care Purchasing
Act is enacted to read:**

**"[NEW MATERIAL] HEALTH CARE PURCHASING AUTHORITY
CREATED. --**

**A. The "health care purchasing authority" is
created. The authority shall consist of twenty-nine members,
as follows:**

- (1) a school business official selected by the**

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1 superintendent of a school district with enrollment greater
2 than sixty thousand students, with the advice and consent of
3 the senate;

4 (2) a public school superintendent of a school
5 district with enrollment less than sixty thousand students
6 selected by the New Mexico school superintendents association,
7 with the advice and consent of the senate;

8 (3) a public school board member selected by
9 the New Mexico school boards association, with the advice and
10 consent of the senate;

11 (4) a teacher who is licensed and teaching in
12 elementary or secondary education selected by the statewide
13 organization of the national education association, with the
14 advice and consent of the senate;

15 (5) a teacher who is licensed and teaching in
16 elementary or secondary education or other public school
17 employee selected by the New Mexico federation of educational
18 employees, with the advice and consent of the senate;

19 (6) a teacher who is licensed and teaching in
20 elementary or secondary education selected by the Albuquerque
21 teachers federation, with the advice and consent of the senate;

22 (7) a member of the public education
23 commission selected by the commission, with the advice and
24 consent of the senate;

25 (8) a retired person selected by the statewide

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1 organization of the American association of retired persons,
2 with the advice and consent of the senate;

3 (9) a retiree who is a representative of the
4 educators retirement board selected by the board, in
5 consultation with the New Mexico association of educational
6 retirees, with the advice and consent of the senate;

7 (10) a retiree who is a representative of the
8 retired public employees of New Mexico selected by that
9 organization, with the advice and consent of the senate;

10 (11) a retiree who is a representative of the
11 public employees retirement association selected by the
12 association, with the advice and consent of the senate;

13 (12) the secretary of human services or the
14 secretary's designee;

15 (13) the secretary of health or the
16 secretary's designee;

17 (14) the secretary of general services or the
18 secretary's designee;

19 (15) a classified state employee, appointed by
20 the governor, with the advice and consent of the senate;

21 (16) a public school employee of a school
22 district with enrollment greater than sixty thousand students,
23 appointed by the governor, with the advice and consent of the
24 senate;

25 (17) a public school employee of a school

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1 district with enrollment less than sixty thousand students,
2 appointed by the governor, with the advice and consent of the
3 senate;

4 (18) an employee of a public post-secondary
5 educational institution, appointed by the governor, with the
6 advice and consent of the senate;

7 (19) a state employee, appointed by the
8 governor, with the advice and consent of the senate;

9 (20) an elected official or employee of a
10 municipality, appointed by the governor, with the advice and
11 consent of the senate;

12 (21) an elected official or employee of a
13 county, appointed by the governor, with the advice and consent
14 of the senate;

15 (22) a person that advocates for persons
16 without health care coverage, appointed by the governor, with
17 the advice and consent of the senate;

18 (23) a retired person from the public at
19 large, appointed by the governor, with the advice and consent
20 of the senate;

21 (24) a retired person with at least five
22 years' experience in the private business sector, appointed by
23 the governor, with the advice and consent of the senate;

24 (25) a person who has at least five years'
25 experience as a health care practitioner or administrator,

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1 appointed by the governor, with the advice and consent of the
2 senate; and

3 (26) the superintendent of insurance, the
4 executive director of the New Mexico health policy commission,
5 the director of the state agency on aging and the secretary of
6 public education, as nonvoting, ex-officio members.

7 B. The governor, the senate and the recommending
8 organizations, to the extent practicable, shall take into
9 consideration and give preference to persons who have
10 experience in health care delivery, administration or
11 financing.

12 C. The members shall be appointed so as to give
13 geographic representation to all parts of the state. The
14 members shall be residents of the state. The initial appointed
15 members shall be appointed to staggered terms of four years or
16 less, so that the terms of at least three members expire on
17 January 1 of each year; thereafter, the terms shall be for four
18 years. A vacancy shall be filled by appointment by the
19 appropriate appointing authority for the remainder of the
20 unexpired term. An appointed member of the authority shall be
21 eligible for reappointment.

22 D. A member of the authority shall not have a
23 pecuniary or fiduciary interest with an entity with which the
24 authority contracts pursuant to this 2004 act. Each member
25 shall provide, within thirty days of appointment and annually

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1 thereafter, a conflict-of-interest disclosure statement as
2 developed by the authority.

3 E. The authority shall elect annually one of its
4 members to serve as chair and one of its members to serve as
5 vice chair. The authority may delegate to the director and the
6 secretary of general services such powers and duties as it may
7 deem proper and consistent with the Health Care Purchasing Act.

8 F. Meetings of the authority shall be held at the
9 call of the chair or whenever six members shall so request in
10 writing; provided that the authority shall meet at least four
11 times per year. A majority of voting members constitutes a
12 quorum for the transaction of any business and for the exercise
13 of any power or duty of the authority. The affirmative vote of
14 at least a majority of a quorum present shall be necessary for
15 any action to be taken by the authority. An ex-officio member
16 may designate in writing another person to attend meetings of
17 the authority and, to the same extent and with the same effect,
18 act in the ex-officio member's stead.

19 G. The authority is not created or organized, and
20 its operations shall not be conducted, for the purpose of
21 making a profit. Revenues or assets of the authority shall not
22 inure to the benefit of its members or officers. The members
23 of the authority shall not receive compensation for their
24 services, but shall be reimbursed for actual and necessary
25 expenses at the same rate and on the same basis as provided for

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1 public officers in the Per Diem and Mileage Act.

2 H. The authority is a policy-making body and shall
3 not be subject to the supervision or control of any other
4 authority, bureau, department or agency of the state except as
5 specifically provided in the Health Care Purchasing Act. The
6 use of the term "state agency" or "instrumentality" in any
7 other law of the state shall not be deemed to refer to the
8 authority unless the authority is specifically referenced in
9 that law or in this 2004 act.

10 I. The authority is subject to the provisions of
11 the Open Meetings Act.

12 J. The authority is a governmental instrumentality
13 for purposes of the Tort Claims Act. "

14 Section 2. A new section of the Health Care Purchasing
15 Act is enacted to read:

16 "[NEW MATERIAL] POWERS OF THE AUTHORITY. --The authority
17 may:

- 18 A. sue or be sued;
- 19 B. adopt and alter an official seal;
- 20 C. adopt rules, pursuant to the Administrative
21 Procedures Act, as are necessary and appropriate to implement
22 the provisions of the Health Care Purchasing Act;
- 23 D. make and execute contracts, agreements and other
24 instruments necessary and appropriate in the exercise of the
25 authority's powers and functions to carry out the provisions of

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1 the Health Care Purchasing Act;

2 E. apply for and accept gifts or grants of
3 property, funds, services or aid in any form from the United
4 States, any unit of government or any person and to comply,
5 subject to the provisions of the Health Care Purchasing Act,
6 with the terms and conditions of the gifts or grants;

7 F. provide for the services of two or more entities
8 licensed in the state that are insurance companies, health
9 maintenance organizations or professional claims administrators
10 in accordance with the Procurement Code;

11 G. provide for services that oversee quality of and
12 access to health care; and

13 H. provide, at its discretion, different plans for
14 eligible participants covered by Title 18 of the federal Social
15 Security Act than the plans provided for eligible participants
16 who are not covered by Title 18 of the federal Social Security
17 Act. "

18 Section 3. A new section of the Health Care Purchasing
19 Act is enacted to read:

20 "[NEW MATERIAL] DUTIES OF THE AUTHORITY. --The authority
21 shall:

22 A. fix, revise from time to time, charge and
23 collect fees and other charges in connection with the
24 procurement of health care benefits and other services rendered
25 by the authority;

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1 B. accept, administer, hold and use all funds made
2 available to the authority from any sources;

3 C. collect and disburse funds and provide for the
4 investment of the fund;

5 D. collect all current and historical claims and
6 financial information necessary for effective procurement of
7 health care benefits;

8 E. make claims and financial information available,
9 while protecting proprietary and individually identifiable
10 information, to the New Mexico health policy commission, the
11 insurance division of the public regulation commission, the
12 human services department and the department of health for
13 policy and planning purposes;

14 F. negotiate health care benefit policies covering
15 additional or lesser benefits as determined appropriate by the
16 authority, but the authority shall maintain all coverage as
17 required by federal or state law for each participant;

18 G. procure health care benefits and other coverages
19 authorized by the Health Care Purchasing Act in accordance with
20 the Procurement Code; provided that health care benefits
21 coverage afforded by the authority shall include at least one
22 option that is not a health maintenance organization benefits
23 plan;

24 H. establish the procedures for contributions and
25 deductions if not already provided;

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1 I. establish subcommittees that shall hold regional
2 and quarterly meetings for participant groups eligible pursuant
3 to the Retiree Health Care Act, the Group Benefits Act, a
4 school district with a student enrollment greater than sixty
5 thousand students and, prior to the effective date of this 2004
6 act, the Public School Insurance Authority Act;

7 J. in conjunction with the human services
8 department and the department of health, provide for
9 initiatives and outcome measurements that address public health
10 and safety issues and improve the health education and health
11 status of participants;

12 K. in conjunction with the human services
13 department and the department of health, provide for
14 intervention and treatment programs designed to address the
15 state's most prevalent diseases and injuries and improve the
16 health education and health status of participants;

17 L. report to the governor and the legislature, five
18 years from the effective date of this 2004 act and every three
19 years thereafter, the impact that consolidation and procurement
20 pursuant to the Health Care Purchasing Act has had on the
21 state's uninsured, health insurance costs, business community
22 and private group and individual insurance market; and

23 M do any and all things necessary and appropriate
24 to carry out its purposes and exercise the powers given and
25 granted in the Health Care Purchasing Act. "

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1 Section 4. A new section of the Health Care Purchasing
2 Act is enacted to read:

3 "[NEW MATERIAL] PURCHASE OF HEALTH CARE BENEFITS. --

4 A. The general services department is designated
5 the group policyholder for health care benefits plans
6 established pursuant to the Health Care Purchasing Act.

7 B. To the extent practicable or as required by law,
8 a health care benefits plan shall cover preexisting conditions.

9 C. Participants eligible for health care benefits
10 plan coverage shall not be grouped unless an actuarial analysis
11 demonstrates that each group of participants to be grouped
12 would receive a more favorable premium rate. The local
13 superintendent, or the superintendent's designee, of a school
14 district with student enrollment greater than sixty thousand
15 students may review the actuarial analysis for concurrence
16 before the authority determines if the participants will be
17 grouped; provided that the participants of that school district
18 shall not be grouped with other participants unless the school
19 district participants would receive a more favorable premium
20 rate by grouping.

21 D. Health care benefits plans offered pursuant to
22 the Health Care Purchasing Act shall include appropriate
23 coverage as described in the following sections:

- 24 (1) Section 59A-22-33 NMSA 1978;
- 25 (2) Section 59A-22-34 NMSA 1978;

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- 1 (3) Section 59A-22-34.1 NMSA 1978;
- 2
- 3 (4) Section 59A-22-34.2 NMSA 1978;
- 4 (5) Section 59A-22-34.3 NMSA 1978;
- 5 (6) Section 59A-22-35 NMSA 1978;
- 6 (7) Section 59A-22-36 NMSA 1978;
- 7 (8) Section 59A-22-39 NMSA 1978;
- 8 (9) Section 59A-22-39.1 NMSA 1978;
- 9 (10) Section 59A-22-40 NMSA 1978;
- 10 (11) Section 59A-22-41 NMSA 1978;
- 11 (12) Section 59A-22-42 NMSA 1978;
- 12 (13) Section 59A-22-43 NMSA 1978;
- 13 (14) Section 59A-22-44 NMSA 1978;
- 14 (15) Section 59A-23-6 NMSA 1978; and
- 15 (16) Section 59A-23E-18 NMSA 1978.

16 E. Health care benefits plans offered pursuant to
17 the Health Care Purchasing Act shall include effective
18 cost-containment measures, including prevention, intervention
19 and treatment programs, to control the growth of health care
20 costs. The authority shall report annually by October 1 to the
21 governor, the insurance division of the public regulation
22 commission, the legislative finance committee and the
23 legislative health and human services committee on the
24 effectiveness of the cost-containment measures required by this
25 subsection and the initiatives required by Subsections J and K

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1 of Section 3 of this 2004 act. "

2 Section 5. A new section of the Health Care Purchasing
3 Act is enacted to read:

4 "[NEW MATERIAL] EXPULSION FROM PROGRAM FOR
5 FALSIFICATION. --

6 A. After written notice to the participant and
7 hearing with a fair opportunity to appear and present the case
8 personally or by counsel, the authority may expel from
9 participation pursuant to the Health Care Purchasing Act a
10 participant who knowingly submits a false claim or eligibility
11 request or knowingly has falsified or attempted to falsify a
12 claim or eligibility request for health care benefits offered
13 by the authority.

14 B. On its motion or on the receipt of a complaint,
15 the authority may call and hold a hearing to determine whether
16 a participant has knowingly submitted a false claim or
17 eligibility request or has knowingly falsified or attempted to
18 falsify a claim or eligibility request for health care benefits
19 offered pursuant to the Health Care Purchasing Act.

20 C. If the authority, at the conclusion of the
21 hearing, issues a decision finding that a participant knowingly
22 submitted a false claim or eligibility request or has knowingly
23 falsified or attempted to falsify a claim or eligibility
24 request for health care benefits offered pursuant to the Health
25 Care Purchasing Act, the authority shall expel the participant

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1 from participation in any coverage plans or impose conditions
2 upon continued or future participation. "

3 Section 6. A new section of the Health Care Purchasing
4 Act is enacted to read:

5 "[NEW MATERIAL] EXEMPTION FROM LEGAL PROCESS. -- All health
6 care benefit payments, participant and employer contributions,
7 optional benefits payments and rights, benefits or payments
8 accruing to a person pursuant to the Health Care Purchasing Act,
9 as well as all money in the fund, are exempt from execution,
10 attachment, garnishment or other legal process and shall not be
11 assigned except as specifically provided by that act; provided
12 that a participant may assign benefit payment to a health care
13 provider. "

14 Section 7. A new section of the Health Care Purchasing
15 Act is enacted to read:

16 "[NEW MATERIAL] HEALTH CARE BENEFITS PLAN CONTRIBUTIONS. --

17 A. Health care benefits plan contributions by
18 retirees and participating employers and employees pursuant to
19 the Retiree Health Care Act shall be made pursuant to that act.

20 B. Health care benefits plan contributions for the
21 state or any of its departments or institutions, including
22 institutions of higher education and the public schools and
23 charter schools, shall be made pursuant to Section 10-7-4 NMSA
24 1978.

25 C. Health care benefits plan contributions by or on

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1 behalf of participants shall be made to the separate subaccounts
2 in the health care purchasing fund to ensure sole and separate
3 accounting and funding for coverage of participants through:

4 (1) the Retiree Health Care Act;

5 (2) the Group Benefits Act, including other
6 participants pursuant to Section 13-7-5 NMSA 1978;

7 (3) a school district with student enrollment
8 greater than sixty thousand students; or

9 (4) prior to the effective date of this 2004
10 act, the Public School Insurance Authority Act. "

11 Section 8. A new section of the Health Care Purchasing
12 Act is enacted to read:

13 "[NEW MATERIAL] HEALTH CARE PURCHASING FUND CREATED. --

14 A. The "health care purchasing fund" is created in
15 the state treasury. The fund and income produced by the fund
16 shall be held in trust for the benefit of participating state
17 agencies, participants and political subdivisions and their
18 employees, deposited in a segregated account and invested by the
19 state investment officer in consultation with the authority.
20 Money in the fund shall be used solely for the purposes of the
21 fund and shall not be used to pay general or special obligations
22 or debts of the state. Balances in the fund in excess of
23 amounts needed for the purposes of the fund shall not be used to
24 pay dividends or refunds, however described, to participants but
25 may be used, in the authority's discretion, to reduce future

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1 contributions, to provide additional health care benefits or as
2 a reserve to stabilize premiums. Money remaining in the fund at
3 the end of a fiscal year shall not revert to the general fund.

4 B. The fund consists of money appropriated to the
5 fund, income from investment of the fund, employers'
6 contributions, participants' contributions, insurance or
7 reinsurance proceeds and other funds received by gift, grant,
8 bequest or otherwise for deposit in the fund, including refunds
9 of amounts from prior group life, vision, dental, health and
10 disability insurance plans.

11 C. Money appropriated to the fund from the retiree
12 health care fund, the group self-insurance fund, the public
13 school insurance fund or a school district with student
14 enrollment greater than sixty thousand students shall be
15 maintained in separate subaccounts to provide sole and separate
16 accounting and funding for coverage of participants eligible
17 through:

- 18 (1) the Retiree Health Care Act;
- 19 (2) the Group Benefits Act, including other
20 participants pursuant to Section 13-7-5 NMSA 1978;
- 21 (3) a school district with student enrollment
22 greater than sixty thousand students; or
- 23 (4) prior to the effective date of this 2004
24 act, the Public School Insurance Authority Act.

25 The separate subaccounts shall not be commingled to ensure

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1 that each subaccount is maintained solely and separately for the
2 respective participants. A separate subaccount shall be
3 maintained for other public or private participants and
4 participating employers that voluntarily elect to purchase
5 coverage afforded by or through the authority; provided that
6 sole and separate accounting and funding is provided for each
7 distinct participant group.

8 D. Disbursements from the fund shall be made by
9 warrant signed by the secretary of finance and administration
10 upon vouchers signed by the director or the director's
11 authorized representative.

12 E. Money in the fund is appropriated to the general
13 services department:

14 (1) to purchase, at the direction of the
15 authority, health care benefits or any combination of these
16 benefits, for participants in the health care benefits plan,
17 from or through two or more entities licensed in the state that
18 are insurance companies, health maintenance organizations or
19 professional claims administrators determined to be the best
20 responsible bidders, as defined in the Procurement Code, after
21 requesting sealed proposals in accordance with the provisions of
22 the Procurement Code;

23 (2) to contract with and pay two or more
24 professional claims administrators, health maintenance
25 organizations or insurance companies;

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1 (3) to contract with and pay private attorneys
2 or law firms for advice and for defense of contested claims
3 determinations;

4 (4) to contract with and pay qualified
5 independent actuaries, financial auditors and claims management
6 and procedures auditors;

7 (5) to contract with and pay consultants,
8 financial advisers and investment advisers for independent
9 consulting and advice;

10 (6) to pay reasonable investment commissions
11 and expenses;

12 (7) to pay any other costs and expenses
13 incurred in carrying out the provisions of this section; and

14 (8) as otherwise provided by law.

15 F. Any money or appropriations savings realized as a
16 result of this 2004 act shall be used for the benefit of
17 participant groups.

18 G. The fund and its subaccounts shall be maintained
19 in actuarially sound condition as evidenced by written
20 certification of an actuary qualified for such work that as of
21 June 30 of the current year the fund and its subaccounts were
22 actuarially sound. The written certification shall be completed
23 by October 1 of the current year.

24 H. Annually on or before January 15, the authority
25 shall submit to the legislature a report on a health care

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1 benefits plan established pursuant to the Health Care Purchasing
2 Act, a financial audit of the fund and its subaccounts and a
3 claims management and procedures audit by a qualified claims
4 auditor for the one-year period ending on June 30 immediately
5 preceding the report. With respect to claims files, the claims
6 audit may, in the authority's discretion, be limited to a
7 financial stratified sample. "

8 Section 9. A new section of the Health Care Purchasing
9 Act is enacted to read:

10 " [NEW MATERIAL] HEALTH CARE PURCHASING FUND-- INVESTMENT. --

11 A. In making investments of the fund, the state
12 investment officer shall consider the relative safety of the
13 investment and the need for liquidity in the fund, as well as
14 the income to be produced. No investment of the fund shall have
15 a maturity date, or similar date before which it may not be
16 liquidated for cash without penalty, premium, deduction,
17 surcharge or interest rate decrease, later than one year from
18 the date of purchase.

19 B. Investment of the fund shall be made with the
20 exercise of that degree of judgment and care, under the
21 circumstances then prevailing, that a person of prudence,
22 discretion and intelligence exercises in the management of his
23 own affairs, not for speculation but for investment, considering
24 the probable safety of his capital as well as the probable
25 income to be derived. "

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1 Section 10. A new section of the Health Care Purchasing
2 Act is enacted to read:

3 "[NEW MATERIAL] ADMINISTRATION. --

4 A. The authority is administratively attached to the
5 general services department.

6 B. The general services department shall provide
7 administrative services to the authority, including:

8 (1) keeping all official records of the
9 authority;

10 (2) providing personnel administration,
11 financial management, procurement and budget preparation
12 services;

13 (3) providing clerical, record-keeping and
14 administrative support to the authority; and

15 (4) executing contracts, agreements and other
16 instruments necessary and appropriate to carry out the
17 provisions of the Health Care Purchasing Act pursuant to
18 Subsection D of Section 2 of this 2004 act.

19 C. The authority shall receive support staff from
20 the general services department. The powers, duties and
21 responsibilities of the authority pursuant to the Health Care
22 Purchasing Act are explicitly exempt from the authority of the
23 secretary of general services under the provisions of Subsection
24 B of Section 9-17-5 NMSA 1978.

25 D. The director, with the prior approval of the

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1 authority, may apportion the costs of administering and
2 operating health care benefits to participating employers and
3 their participants, whether the plan is insured or self-
4 insured. "

5 Section 11. Section 7-1-6.30 NMSA 1978 (being Laws 1990,
6 Chapter 6, Section 20, as amended) is amended to read:

7 "7-1-6.30. DISTRIBUTION--RETIREE HEALTH CARE FUND--HEALTH
8 CARE PURCHASING FUND. --For the period ending June 30, 2002, a
9 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made
10 to the retiree health care fund in an amount equal to one-
11 twelfth of one hundred six percent of the total amount
12 distributed to the retiree health care fund in the previous
13 fiscal year. For the fiscal [year] years beginning July 1, 2002
14 and [~~subsequent fiscal years~~] July 1, 2003, a distribution
15 pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the
16 retiree health care fund in an amount equal to one-twelfth of
17 one hundred twelve percent of the total amount distributed to
18 the retiree health care fund in the previous fiscal year. For
19 the fiscal year beginning July 1, 2004, a distribution pursuant
20 to Section 7-1-6.1 NMSA 1978 shall be made to the health care
21 purchasing fund in an amount equal to one-twelfth of one hundred
22 twelve percent of the total amount distributed to the retiree
23 health care fund in the previous fiscal year; provided that the
24 distribution is made to the subaccount in the health care
25 purchasing fund that is solely and separately for coverage of

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1 participants eligible pursuant to the Retiree Health Care Act.
2 For the fiscal year beginning July 1, 2005 and subsequent fiscal
3 years, a distribution pursuant to Section 7-1-6.1 NMSA 1978
4 shall be made to the health care purchasing fund in an amount
5 equal to one-twelfth of one hundred twelve percent of the total
6 amount distributed to the health care purchasing fund in the
7 previous fiscal year; provided that the distribution is made to
8 the subaccount in the health care purchasing fund that is solely
9 and separately for coverage of participants eligible pursuant to
10 the Retiree Health Care Act. "

11 Section 12. Section 9-17-6 NMSA 1978 (being Laws 1983,
12 Chapter 301, Section 6, as amended) is amended to read:

13 "9-17-6. GENERAL SERVICES DEPARTMENT-- ADMINISTRATIVELY
14 ATTACHED AGENCIES. --

15 A. The personnel board and office are
16 administratively attached to the general services department, as
17 provided in Section 10-9-11 NMSA 1978.

18 ~~B. The information systems council is~~
19 ~~administratively attached to the general services department as~~
20 ~~provided in Section 15-1-5 NMSA 1978.]~~

21 B. The health care purchasing authority is
22 administratively attached to the general services department as
23 provided in the Health Care Purchasing Act.

24 C. A division shall be created, pursuant to
25 Subsection C of Section 9-17-3 NMSA 1978, by July 1, 2004 to

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1 carry out the provisions of the Health Care Purchasing Act. The
2 director of the division created pursuant to this subsection
3 shall have qualifications that include five years' experience in
4 health care administration, experience with public institutions
5 and their employees and knowledge of health care benefits or
6 insurance. "

7 Section 13. Section 10-7B-1 NMSA 1978 (being Laws 1989,
8 Chapter 231, Section 1) is amended to read:

9 "10-7B-1. SHORT TITLE. -- ~~[Sections 1 through 7 of this~~
10 ~~act]~~ Chapter 10, Article 7B NMSA 1978 may be cited as the "Group
11 Benefits Act". "

12 Section 14. Section 10-7B-2 NMSA 1978 (being Laws 1989,
13 Chapter 231, Section 2, as amended) is amended to read:

14 "10-7B-2. DEFINITIONS. -- As used in the Group Benefits
15 Act:

16 [~~A. "committee" means the group benefits committee]~~

17 A. "authority" means the health care purchasing
18 authority created pursuant to the Health Care Purchasing Act;

19 B. "director" means the director of [the risk
20 management] a separate division of the general services
21 department newly created to carry out the provisions of the
22 Health Care Purchasing Act;

23 C. "employee" means a salaried officer, employee or
24 legislator of the state or a salaried officer or employee of a
25 local public body;

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1 D. "local public body" means any New Mexico
2 incorporated municipality, county or ~~[school district]~~ post-
3 secondary educational institution;

4 E. "professional claims administrator" means any
5 person or legal entity that has at least five years of
6 experience handling group benefits claims, as well as such other
7 qualifications as the director may determine from time to time
8 with the ~~[committee's]~~ authority's advice; and

9 F. "state" or "state agency" means the state of New
10 Mexico or any of its branches, agencies, departments, boards,
11 instrumentalities or institutions."

12 Section 15. Section 10-7B-5 NMSA 1978 (being Laws 1989,
13 Chapter 231, Section 5) is amended to read:

14 "10-7B-5. ADMINISTRATIVE COSTS.--The director, with the
15 prior approval of the ~~[group benefits committee]~~ authority, may
16 apportion the costs of administering and operating employee
17 benefits ~~[administration and other employee benefit costs]~~ to
18 all participating state agencies and their employees and
19 participating local public bodies and their employees, whether
20 the plan is insured or self-insured."

21 Section 16. Section 10-7B-6 NMSA 1978 (being Laws 1989,
22 Chapter 231, Section 6, as amended) is amended to read:

23 "10-7B-6. STATE EMPLOYEES GROUP BENEFITS SELF-INSURANCE
24 PLAN--AUTHORIZATION--LOCAL PUBLIC BODY PARTICIPATION.--

25 A. The ~~[risk management division of]~~ authority may

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1 direct the general services department [~~may, with the prior~~
2 ~~advice of the committee~~] to establish and administer a group
3 benefits self-insurance plan, providing life, vision, health,
4 dental and disability coverages, or any combination of such
5 coverages, for employees of the state and of participating local
6 public bodies. Any such group benefits self-insurance plan
7 shall afford coverage for employees' dependents at each
8 employee's option. Any such group benefits self-insurance plan
9 may consist of self-insurance or a combination of self-insurance
10 and insurance; provided that particular coverages or risks may
11 be fully insured, fully self-insured or partially insured and
12 partially self-insured.

13 B. The [~~director, with the advice of the committee~~]
14 authority shall establish by [~~regulation or letter of~~
15 ~~administration~~] rule the types, extent, nature and description
16 of coverages, the eligibility rules for participation, the
17 [~~deductibles~~] out-of-pocket payments, rates and all other
18 matters reasonably necessary to carry on or administer a group
19 benefits self-insurance plan established pursuant to Subsection
20 A of this section.

21 C. The contribution of each participating state
22 agency to the cost of any such group benefits self-insurance
23 plan shall not exceed that percentage provided for state group
24 benefits insurance plans as provided by law. The contribution
25 of a participating local public body to the cost of any such

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1 group benefits self-insurance plan shall not exceed that
2 percentage provided for local public body group benefits
3 insurance plans as provided by law.

4 D. Except as provided in Subsection E of this
5 section, public employees' contributions to the cost of any
6 group benefits self-insurance plan may be deducted from their
7 salaries and paid directly to the [~~group self-insurance~~] health
8 care purchasing fund; provided that where risks are insured or
9 reinsured, the director may authorize payment of the costs of
10 such insurance or reinsurance directly to the insurer or
11 reinsurer.

12 E. A legislator and the legislator's covered
13 dependents are eligible to participate in and receive benefits
14 from the group benefits self-insurance plan if the legislator
15 pays monthly premiums in amounts that equal one hundred percent
16 of the cost of the insurance. The premiums shall be paid
17 directly to the [~~group self-insurance~~] health care purchasing
18 fund; provided that where risks are insured or reinsured, the
19 director may authorize payment of the premiums directly to the
20 insurer or reinsurer.

21 F. Local public bodies [~~and state agencies~~] that are
22 not participating in the state group benefits insurance plan or
23 self-insurance plan may elect to participate in any group
24 benefits self-insurance plan established pursuant to Subsection
25 A of this section by giving written notice to the director on a

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1 date set by the director, which date shall not be later than
2 ninety days prior to the date participation is to begin. The
3 director shall determine an initial rate for the electing entity
4 in accordance with a letter of administration setting forth
5 written guidelines established by the director with the
6 [~~committee's~~] authority's advice. The initial rate shall be
7 based on the claims experience of the electing entity's group
8 for the three immediately preceding continuous years. If three
9 years of continuous experience is not available, a rate fixed
10 for the entity by the director with the [~~committee's~~]
11 authority's advice shall apply, and the electing entity's group
12 shall be rereated on the first premium anniversary following the
13 date one full year of experience for the group becomes
14 available. Any such election may be terminated effective not
15 earlier than June 30 of the third calendar year succeeding the
16 year in which the election became effective or on any June 30
17 thereafter. Notice of termination shall be made in writing to
18 the director not later than April 1 immediately preceding the
19 June 30 on which participation will terminate. Any accumulated
20 deficit shall be paid upon termination. A reelection to
21 participate in the plan following a termination may not be made
22 effective for at least three full years following the effective
23 date of termination.

24 G. As soon as practicable, the director with the
25 [~~committee's~~] authority's advice shall establish an experience

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1 rating plan for state agencies and local public bodies
2 participating in any group benefits self-insurance plan created
3 pursuant to Subsection A of this section. Rates applicable to
4 state agencies and participating local public bodies shall be
5 based on such experience rating plan. Any such experience
6 rating plan may provide separate rates for individual state
7 agencies and individual local public bodies or for such other
8 experience centers as the director may determine. "

9 Section 17. Section 10-7C-1 NMSA 1978 (being Laws 1990,
10 Chapter 6, Section 1) is amended to read:

11 "10-7C-1. SHORT TITLE. -- [~~Sections 1 through 16 of this~~
12 ~~act~~] Chapter 10, Article 7C NMSA 1978 may be cited as the
13 "Retiree Health Care Act". "

14 Section 18. Section 10-7C-2 NMSA 1978 (being Laws 1990,
15 Chapter 6, Section 2) is amended to read:

16 "10-7C-2. PURPOSE OF ACT. --The purpose of the Retiree
17 Health Care Act is to provide comprehensive core group health
18 insurance for persons who have retired from certain public
19 service in New Mexico. The purpose is to provide eligible
20 retirees, their spouses, dependents and surviving spouses and
21 dependents with health insurance consisting of a plan or
22 optional plans of benefits that can be purchased by funds
23 flowing into the [~~retiree~~] health care purchasing fund and by
24 co-payments or out-of-pocket payments of insureds. "

25 Section 19. Section 10-7C-4 NMSA 1978 (being Laws 1990,

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1 Chapter 6, Section 4, as amended) is amended to read:

2 "10-7C-4. DEFINITIONS. -- As used in the Retiree Health
3 Care Act:

4 A. "active employee" means an employee of a public
5 institution or any other public employer participating in either
6 the Educational Retirement Act, the Public Employees Retirement
7 Act, the Judicial Retirement Act, the Magistrate Retirement Act
8 or the Public Employees Retirement Reciprocity Act or an
9 employee of an independent public employer;

10 B. "authority" means the [retiree] health care
11 purchasing authority created pursuant to the [Retiree] Health
12 Care Purchasing Act;

13 C. "basic plan of benefits" means only those
14 coverages generally associated with a medical plan of benefits;

15 ~~[D. "board" means the board of the retiree health
16 care authority;~~

17 ~~E.]~~ D. "current retiree" means an eligible retiree
18 who is receiving a disability or normal retirement benefit under
19 the Educational Retirement Act, the Public Employees Retirement
20 Act, the Judicial Retirement Act, the Magistrate Retirement Act,
21 the Public Employees Retirement Reciprocity Act or the
22 retirement program of an independent public employer on or
23 before July 1, 1990;

24 E. "director" means the director of a separate
25 division of the general services department newly created to

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1 carry out the provisions of the Health Care Purchasing Act;

2 F. "eligible dependent" means a person obtaining
3 retiree health care coverage based upon that person's
4 relationship to an eligible retiree as follows:

5 (1) a spouse;

6 (2) an unmarried child under the age of
7 ~~[nineteen]~~ twenty-five who is:

8 (a) a natural child;

9 (b) a legally adopted child;

10 (c) a stepchild living in the same
11 household who is primarily dependent on the eligible retiree for
12 maintenance and support;

13 (d) a child for whom the eligible retiree
14 is the legal guardian and who is primarily dependent on the
15 eligible retiree for maintenance and support, as long as
16 evidence of the guardianship is evidenced in a court order or
17 decree; or

18 (e) a foster child living in the same
19 household;

20 ~~[(3) a child described in Subparagraphs (a)~~
21 ~~through (e) of Paragraph (2) of this subsection who is between~~
22 ~~the ages of nineteen and twenty-five and is a full-time student~~
23 ~~at an accredited educational institution; provided that~~
24 ~~"full-time student" shall be a student enrolled in and taking~~
25 ~~twelve or more semester hours or its equivalent contact hours in~~

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1 ~~primary, secondary, undergraduate or vocational school or a~~
2 ~~student enrolled in and taking nine or more semester hours or~~
3 ~~its equivalent contact hours in graduate school;~~

4 ~~(4)~~ (3) a dependent child over [~~nineteen~~]
5 twenty-five who is wholly dependent on the eligible retiree for
6 maintenance and support and who is incapable of self-sustaining
7 employment by reason of mental retardation, [~~or~~] physical
8 handicap or serious mental illness; provided that proof of
9 incapacity and dependency shall be provided within thirty-one
10 days after the child reaches the limiting age and at such times
11 thereafter as may be required by the [~~board~~] authority;

12 ~~(5)~~ (4) a surviving spouse defined as
13 follows:

14 (a) "surviving spouse" means the spouse
15 to whom a retiree was married at the time of death; or

16 (b) "surviving spouse" means the spouse
17 to whom a deceased vested active employee was married at the
18 time of death; or

19 ~~(6)~~ (5) a surviving dependent child who is
20 the dependent child of a deceased eligible retiree whose other
21 parent is also deceased;

22 G. "eligible employer" means either:

23 (1) a "retirement system employer", which
24 means an institution of higher education, a school district or
25 other entity participating [~~in the public school insurance~~

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1 ~~authority]~~ pursuant to the Health Care Purchasing Act, a state
2 agency, state court, ~~magistrate court~~, ~~municipality~~, county or
3 public entity, each of which is affiliated under or covered by
4 the Educational Retirement Act, the Public Employees Retirement
5 Act, the Judicial Retirement Act, the ~~Magistrate Retirement Act~~
6 or the Public Employees Retirement Reciprocity Act; or

7 (2) an "independent public employer", which
8 means a ~~municipality~~, county or public entity that is not a
9 retirement system employer;

10 H. "eligible retiree" means:

11 (1) a "nonsalaried eligible participating
12 entity governing [~~authority]~~ body member" who is a person who is
13 not a retiree and who:

14 (a) has served without salary as a ~~member~~
15 of the governing [~~authority]~~ body of an employer eligible to
16 participate in the benefits of the Retiree Health Care Act and
17 is certified to be such by the [~~executive director of the public~~
18 ~~school insurance authority]~~ superintendent of the respective
19 school district;

20 (b) has maintained group health insurance
21 coverage through that ~~member's~~ governing [~~authority]~~ body if
22 such group health insurance coverage was available and offered
23 to the ~~member~~ during the ~~member's~~ service as a ~~member~~ of the
24 governing [~~authority]~~ body; and

25 (c) was participating in the group health

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1 insurance program under the Retiree Health Care Act prior to
2 July 1, 1993; or

3 (d) notwithstanding the provisions of
4 Subparagraphs (b) and (c) of this paragraph, is eligible under
5 Subparagraph (a) of this paragraph and has applied before August
6 1, 1993 to the retiree health care authority to participate in
7 the program;

8 (2) a "salaried eligible participating entity
9 governing [~~authority~~] body member" [~~who is~~] which means a person
10 who is not a retiree and who:

11 (a) has served with salary as a member of
12 the governing [~~authority~~] body of an employer eligible to
13 participate in the benefits of the Retiree Health Care Act;

14 (b) has maintained group health insurance
15 through that member's governing [~~authority~~] body, if such group
16 health insurance was available and offered to the member during
17 the member's service as a member of the governing [~~authority~~]
18 body; and

19 (c) was participating in the group health
20 insurance program under the Retiree Health Care Act prior to
21 July 1, 1993; or

22 (d) notwithstanding the provisions of
23 Subparagraphs (b) and (c) of this paragraph, is eligible under
24 Subparagraph (a) of this paragraph and has applied before August
25 1, 1993 to the retiree health care authority to participate in

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1 the program;

2 (3) an "eligible participating retiree", [~~who~~
3 ~~is~~] which means a person who:

4 (a) falls within the definition of a
5 retiree, has ~~made~~ contributions to the fund or the retiree
6 health care fund for at least five years prior to retirement and
7 whose eligible employer during that period of time ~~made~~
8 contributions as a participant in the Retiree Health Care Act on
9 the person's behalf, unless that person retires on or before
10 July 1, 1995, in which event the time period required for
11 employee and employer contributions shall become the period of
12 time between July 1, 1990 and the date of retirement, and who is
13 certified to be a retiree by the educational retirement
14 director, the executive secretary of the public employees
15 retirement board or the governing [~~authority~~] body of an
16 independent public employer;

17 (b) falls within the definition of a
18 retiree, retired prior to July 1, 1990 and is certified to be a
19 retiree by the educational retirement director, the executive
20 secretary of the public employees retirement association or the
21 governing [~~authority~~] body of an independent public employer;
22 but this paragraph does not include a retiree who was an
23 employee of an eligible employer who exercised the option not to
24 be a participating employer pursuant to the Retiree Health Care
25 Act and did not after January 1, 1993 elect to become a

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1 participating employer; unless the retiree: 1) retired on or
2 before June 30, 1990; and 2) at the time of retirement did not
3 have a retirement health plan or retirement health insurance
4 coverage available from his employer; or

5 (c) is a retiree who: 1) was at the time
6 of retirement an employee of an eligible employer who exercised
7 the option not to be a participating employer pursuant to the
8 Retiree Health Care Act, but which eligible employer
9 subsequently elected after January 1, 1993 to become a
10 participating employer; 2) has made contributions to the fund or
11 the retiree health care fund for at least five years prior to
12 retirement and whose eligible employer during that period of
13 time made contributions as a participant in the Retiree Health
14 Care Act on the person's behalf, unless that person retires less
15 than five years after the date participation begins, in which
16 event the time period required for employee and employer
17 contributions shall become the period of time between the date
18 participation begins and the date of retirement; and 3) is
19 certified to be a retiree by the educational retirement
20 director, the executive director of the public employees
21 retirement board or the governing [~~authority~~] body of an
22 independent public employer; [~~or~~]

23 (4) a "legislative member", which means a
24 person who is not a retiree and who served as a member of the
25 New Mexico legislature for at least two years, but is no longer

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1 a member of the legislature and is certified to be such by the
2 legislative council service; or

3 (5) a "former participating employer governing
4 body member", which means a person, other than a nonsalaried
5 eligible participating entity governing body member or a
6 salaried eligible participating entity governing body member,
7 who is not a retiree and who served as a member of the governing
8 body of a participating employer for at least four years but is
9 no longer a member of the governing body and is certified to be
10 such by the chief executive officer of the participating
11 employer;

12 I. "fund" means the [~~retiree~~] health care purchasing
13 fund;

14 J. "group health insurance" means coverage that
15 includes but is not limited to life insurance, accidental death
16 and dismemberment, hospital care and benefits, surgical care and
17 treatment, ~~medical care and treatment~~, dental care, eye care,
18 obstetrical benefits, prescribed drugs, medicines and prosthetic
19 devices, ~~medicare supplement, medicare carveout, medicare~~
20 ~~coordination and other benefits, supplies and services through~~
21 ~~the vehicles of indemnity coverages, health maintenance~~
22 ~~organizations, preferred provider organizations and other health~~
23 ~~care delivery systems as provided by the Retiree Health Care Act~~
24 ~~and other coverages considered by the [~~board~~] authority to be~~
25 ~~advisable;~~

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- 1 K. "ineligible dependents" include:
- 2 (1) those dependents created by common law
- 3 relationships;
- 4 (2) dependents while in active military
- 5 service;
- 6 (3) parents, aunts, uncles, brothers, sisters,
- 7 grandchildren and other family members left in the care of an
- 8 eligible retiree without evidence of legal guardianship; and
- 9 (4) anyone not specifically referred to as an
- 10 eligible dependent pursuant to the rules and regulations adopted
- 11 by the ~~[board]~~ authority;

12 L. "participating employee" means an employee of

13 a participating employer, which employee has not been expelled

14 from participation in the Retiree Health Care Act ~~[pursuant to~~

15 ~~Section 10-7C-10 NMSA 1978]~~;

16 M. "participating employer" means an eligible

17 employer who has satisfied the conditions for participating in

18 the benefits of the Retiree Health Care Act, including the

19 requirements of ~~[Subsection M of Section 10-7C-7 NMSA 1978 and]~~

20 Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

21 N. "public entity" means a flood control authority,

22 economic development district, council of governments, regional

23 housing authority, conservancy district or other special

24 district or special purpose government; and

25 O. "retiree" means a person who:

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(1) is receiving:

(a) a disability or normal retirement benefit or survivor's benefit pursuant to the Educational Retirement Act;

(b) a disability or normal retirement benefit or survivor's benefit pursuant to the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act; or

(c) a disability or normal retirement benefit or survivor's benefit pursuant to the retirement program of an independent public employer to which that employer has made periodic contributions; or

(2) is not receiving a survivor's benefit but is the eligible dependent of a person who received a disability or normal retirement benefit pursuant to the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act. "

Section 20. Section 10-7C-9 NMSA 1978 (being Laws 1990, Chapter 6, Section 9, as amended) is amended to read:

"10-7C-9. PARTICIPATION. --

A. All eligible employers shall participate in the Retiree Health Care Act except as provided in Subsection D or [Subsection] E of this section. Participating employers are

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1 required to continue existing group health insurance coverages
2 until such time as similar coverages are offered by the [board]
3 authority.

4 B. Participation in the basic health insurance
5 coverages provided by the authority shall be conditioned upon
6 receipt by the [board] director of a certificate of eligibility
7 from the educational retirement director, the executive
8 secretary of the public employees retirement association, the
9 executive director of the public school insurance authority or
10 the governing body of an independent public employer. Once
11 eligibility is established for each eligible retiree, the
12 [board] authority shall contribute from money in the fund the
13 authority's portion of the premium for the basic plan of
14 benefits commencing no earlier than January 1, 1991 plus the
15 balance of the premium, which shall be collected from the
16 retiree.

17 C. Each eligible retiree shall accept or reject
18 enrollment in the basic plan of benefits on an enrollment form
19 provided by the [board] director. An eligible retiree who
20 rejects enrollment or fails to return a properly executed
21 enrollment form within the open enrollment period as established
22 by the [board] authority forfeits all entitlement and
23 eligibility for benefits under the Retiree Health Care Act until
24 the next open enrollment period as established by the [board]
25 authority.

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1 D. On or before January 1, 1991, municipalities,
2 counties and institutions of higher education that are
3 retirement system employers may at their option determine by
4 ordinance, or for institutions of higher education, by
5 resolution, to be excluded from coverage under the Retiree
6 Health Care Act; that determination shall be subject to the
7 following conditions:

8 (1) any contributions paid into the fund by a
9 municipality, county or institution of higher education that
10 exercises timely an irrevocable option not to participate in the
11 Retiree Health Care Act under this subsection shall be returned
12 without interest to that municipality, county or institution of
13 higher education for return of the employee contributions to the
14 employees and for crediting of the employer contributions to the
15 appropriate fund of the municipality, county or institution of
16 higher education. If the determination to be excluded from
17 coverage is exercised by a municipality, county or institution
18 of higher education prior to July 1, 1990, then that
19 municipality, county or institution of higher education shall
20 not be required to make the contributions that would otherwise
21 be required by Section 10-7C-15 NMSA 1978; and

22 (2) any municipality, county or institution of
23 higher education, in addition to complying with all other
24 required notice and public hearing or meeting requirements,
25 shall, no less than thirty days prior to the public hearing or

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1 public meeting on a proposed ordinance or proposed resolution,
2 notify the authority of the public hearing or public meeting by
3 certified mail. [and

4 ~~(3) in the event that:~~

5 ~~(a) the number of active employees~~
6 ~~employed by municipalities contributing to the fund reaches a~~
7 ~~number equaling sixty percent or more of all active employees~~
8 ~~employed by all municipalities that are retirement system~~
9 ~~employers, the municipal position on the board of the authority~~
10 ~~shall be restored within sixty days of the date that percentage~~
11 ~~is reached; provided, however, that if a municipality with a~~
12 ~~population greater than one hundred thousand that is located in~~
13 ~~a class A county exercises this option, then the sixty percent~~
14 ~~requirement shall be applied to the remaining municipalities~~
15 ~~only;~~

16 ~~(b) the number of active employees~~
17 ~~employed by counties contributing to the fund reaches a number~~
18 ~~equaling sixty percent or more of all active employees employed~~
19 ~~by all counties that are retirement system employers, the county~~
20 ~~position on the board of the authority shall be restored within~~
21 ~~sixty days of the date that percentage is reached; provided,~~
22 ~~however, that if a class A county exercises this option, then~~
23 ~~the eighty percent requirement shall be applied to the remaining~~
24 ~~counties only; or~~

25 ~~(c) the number of active employees~~

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1 ~~employed by institutions of higher learning contributing to the~~
2 ~~fund reaches a number equaling seventy percent or more of all~~
3 ~~active employees employed by an institution of higher education~~
4 ~~contributing to the educational retirement fund, the institution~~
5 ~~of higher education position on the board shall be restored~~
6 ~~within sixty days of the date that percentage is reached.]~~

7 E. An independent public employer may become a
8 participating employer if that employer satisfies the
9 requirements ~~[imposed pursuant to Subsection M of Section~~
10 ~~10-7C-7 NMSA 1978 and if that employer also files with the~~
11 ~~authority on or prior to January 1, 1991 or prior to July 1,~~
12 ~~1993 or]~~ of the authority and files with the authority prior to
13 July 1 of any year a written irrevocable election by the
14 governing body of that employer to participate in the Retiree
15 Health Care Act. Any such independent public employer or
16 retirement system employer, as defined in Subsection G of
17 Section 10-7C-4 NMSA 1978 that chooses to become a participating
18 employer after January 1, 1998 shall begin making the
19 appropriate employer and employee contributions to the fund on
20 the July 1 immediately following the adoption of the ordinance
21 or resolution. On the following January 1, eligible retirees of
22 those participating employers and their eligible dependents
23 shall be eligible to receive group health insurance coverage
24 pursuant to the provisions of the Retiree Health Care Act.

25 F. A municipality or county that enacted an

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1 ordinance or an institution of higher education that enacted a
2 resolution prior to January 1, 1991 pursuant to Subsection D of
3 this section to be excluded from coverage under the Retiree
4 Health Care Act may become a participating employer if that
5 employer satisfies the requirements [~~imposed pursuant to~~
6 ~~Subsection M of Section 10-7C-7 NMSA 1978~~] of the authority and
7 if that employer also enacts an ordinance or resolution, as
8 applicable, after a public hearing and published notice of the
9 hearing, prior to July 1, 1993 or July 1 of any year to choose
10 to become a participating employer under the Retiree Health Care
11 Act. Any such municipality, county or institution of higher
12 education that chooses to become a participating employer after
13 January 1, 1998 shall begin making the appropriate employer and
14 employee contributions determined by the [~~board~~] authority to
15 the fund on the July 1 immediately following the adoption of the
16 ordinance or resolution. On the following January 1, eligible
17 retirees of those participating employers and their eligible
18 dependents shall be eligible to receive group health insurance
19 coverage pursuant to the provisions of the Retiree Health Care
20 Act. "

21 Section 21. Section 10-7C-13 NMSA 1978 (being Laws 1990,
22 Chapter 6, Section 13, as amended) is amended to read:

23 "10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE
24 PLANS. --

25 A. Except as otherwise provided in this section,

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1 each eligible retiree shall pay a monthly premium for the basic
2 plan in an amount set by the ~~[board]~~ authority not to exceed
3 fifty dollars (\$50.00) plus the amount, if any, of the
4 compounded annual increases authorized by the ~~[board]~~ authority,
5 which increases shall not exceed nine percent until fiscal year
6 2008 after which the increases shall not exceed the authority's
7 group health care trend. In addition to the monthly premium for
8 the basic plan, each current retiree and nonsalaried eligible
9 participating entity governing ~~[authority]~~ body member who
10 becomes an eligible retiree shall also pay monthly an additional
11 participation fee set by the ~~[board]~~ authority. That fee shall
12 be five dollars (\$5.00) plus the amount, if any, of the
13 compounded annual increases authorized by the ~~[board]~~ authority,
14 which increases shall not exceed nine percent until fiscal year
15 2008 after which the increases shall not exceed the authority's
16 group health care trend. The additional monthly participation
17 fee paid by the current retirees and nonsalaried eligible
18 participating entity governing ~~[authority]~~ body members who
19 become eligible retirees shall be a consideration and a
20 condition for being permitted to participate in the Retiree
21 Health Care Act. A legislative ~~member~~ or a former participating
22 employer governing body member shall pay a monthly premium for
23 any selected plan equal to one-twelfth of the annual cost of the
24 claims and administrative costs of that plan allocated to the
25 member by the ~~[board]~~ authority. In addition, a legislative

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1 member or a former participating employer governing body member
2 shall pay the additional monthly participation fee set by the
3 [~~board~~] authority pursuant to this subsection as a consideration
4 and condition for participation in the Retiree Health Care Act.
5 Eligible dependents shall pay monthly premiums in amounts that
6 with other money appropriated to the fund shall cover the cost
7 of the basic plan for the eligible dependents.

8 B. Eligible retirees and eligible dependents shall
9 pay monthly premiums to cover the cost of the optional plans
10 that they elect to receive, and the [~~board~~] authority shall
11 adopt rules for the collection of additional premiums from
12 eligible retirees and eligible dependents participating in the
13 optional plans. An eligible retiree or eligible dependent may
14 authorize the authority in writing to deduct the amount of these
15 premiums from the monthly annuity payments, if applicable.

16 C. The participating employers, active employees and
17 retirees are responsible for the financial viability of the
18 program. The overall financial viability is not an additional
19 financial obligation of the state.

20 D. For eligible retirees who become eligible for
21 participation on or after July 1, 2001, the [~~board~~] authority
22 may determine monthly premiums based on the retirees' years of
23 credited service with participating employers. "

24 Section 22. Section 13-7-2 NMSA 1978 (being Laws 1997,
25 Chapter 74, Section 2) is amended to read:

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1 "13-7-2. PURPOSE OF ACT. --

2 A. The purpose of the Health Care Purchasing Act is
3 to ensure public employees, public school employees and retirees
4 of public employment and the public schools access to more
5 affordable and enhanced quality of health insurance through cost
6 containment and savings effected by procedures for consolidating
7 the purchasing of publicly financed health insurance.

8 B. Further, the purpose of the Health Care
9 Purchasing Act is to positively affect efforts to:

10 (1) improve the health status of all
11 participants;

12 (2) contain or minimize the rise in health
13 care costs;

14 (3) lower the number of uninsured New
15 Mexicans; and

16 (4) promote cost containment through consumer
17 choice and selective contracting with insurance companies,
18 health maintenance organizations and professional claims
19 administrators."

20 Section 23. Section 13-7-3 NMSA 1978 (being Laws 1997,
21 Chapter 74, Section 3) is amended to read:

22 "13-7-3. DEFINITIONS. -- As used in the Health Care
23 Purchasing Act:

24 ~~[A. "consolidated purchasing" means a single process~~
25 ~~for the procurement of all health care benefits by the publicly~~

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1 ~~funded insurance agencies in compliance with the Procurement~~
2 ~~Code and includes associated activities related to the~~
3 ~~procurement such as actuarial, cost containment, benefits~~
4 ~~consultation and analysis; and~~

5 ~~B. "publicly funded health care agency" means the:~~

6 ~~(1) risk management division and the group~~
7 ~~benefits committee of the general services department;~~

8 ~~(2) retiree health care authority;~~

9 ~~(3) public school insurance authority; and~~

10 ~~(4) publicly funded health care program of any~~
11 ~~public school district with a student enrollment in excess of~~
12 ~~sixty thousand students]~~

13 A. "authority" means the health care purchasing
14 authority created pursuant to the Health Care Purchasing Act;

15 B. "director" means the director of a separate
16 division of the general services department newly created to
17 carry out the provisions of the Health Care Purchasing Act;

18 C. "fund" means the health care purchasing fund;

19 D. "health care benefits" means:

20 (1) benefits consisting of medical and
21 behavioral health care provided through insurance or other
22 reimbursement, including items and services paid for as medical
23 or behavioral health care;

24 (2) group benefits as provided in the Group
25 Benefits Act; or

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1 (3) group health insurance as provided in the
2 Retiree Health Care Act;

3 E. "participant" means a person eligible and covered
4 pursuant to the Group Benefits Act or the Retiree Health Care
5 Act, an employee of a school district or charter school, a
6 person eligible and covered pursuant to the Health Care
7 Purchasing Act or a dependent as permitted by those acts or
8 other governing bodies;

9 F. "political subdivision" means:

10 (1) a county, municipality, school district,
11 charter school, state educational institution or other public
12 body;

13 (2) a local public body as defined in the
14 Group Benefits Act; or

15 (3) a public entity as defined in the Retiree
16 Health Care Act; and

17 G. "professional claims administrator" means a
18 person or legal entity that has at least five years of
19 experience handling group benefits claims, as well as such other
20 qualifications as the director may determine from time to time
21 with the authority's advice."

22 Section 24. Section 13-7-4 NMSA 1978 (being Laws 1997,
23 Chapter 74, Section 4) is amended to read:

24 "13-7-4. MANDATORY CONSOLIDATED PURCHASING. --

25 A. The ~~[agencies shall enter into a cooperative~~

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1 ~~consolidated purchasing effort to provide~~ authority shall
2 provide for the purchase of plans of health care benefits for
3 the benefit of eligible participants [~~of the respective~~
4 ~~agencies~~]. The request for [~~proposal~~] proposals shall set forth
5 one or more plans of health care benefits [~~and shall include~~
6 ~~accommodation of fully funded arrangements as well as varying~~
7 ~~degrees of self-funded pool options.~~

8 ~~B. A consolidated purchasing request for proposals~~
9 ~~for all health care benefits by the publicly funded health care~~
10 ~~agencies shall be issued on or before July 1, 1999 and any~~
11 ~~contracts for health care benefits renewed or issued on or after~~
12 ~~July 1, 2000 shall be the result of consolidated purchasing.~~

13 ~~C. All requests for proposals issued as part of the~~
14 ~~consolidated purchasing shall include at least one distinct~~
15 ~~service area consisting of the Albuquerque metropolitan area.~~
16 ~~Proposals on a distinct service area shall be evaluated~~
17 ~~separately] and contracts shall be awarded to two or more~~
18 ~~entities licensed in the state that are insurance companies,~~
19 ~~health maintenance organizations or professional claims~~
20 ~~administrators.~~

21 ~~B. Plans of health care benefits may consist of~~
22 ~~self-insurance and insurance; provided that particular coverages~~
23 ~~or risks may be fully insured, fully self-insured or partially~~
24 ~~insured and partially self-insured.~~

25 ~~C. Contracts for the consolidated purchase of health~~

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1 care benefits renewed or issued on or after July 1, 2004 shall
2 be the result of a consolidated purchase. "

3 Section 25. Section 13-7-5 NMSA 1978 (being Laws 2001,
4 Chapter 351, Section 1) is amended to read:

5 "13-7-5. CONSOLIDATED PURCHASING FOR OTHER PERSONS. --

6 A. Counties, municipalities, state educational
7 institutions and other political subdivisions that wish to use
8 [the] a consolidated [~~purchasing single process for the~~
9 ~~procurement~~] purchase of health care benefits shall create or
10 enter into an existing association, cooperative or other mutual
11 alliance to create larger pools of eligible participants.

12 B. Counties, municipalities, state educational
13 institutions and other political subdivisions that wish to use
14 the consolidated [~~purchasing single process~~] purchase of health
15 care benefits shall, through their respective association,
16 cooperative or mutual alliance, participate in the subsequent
17 consolidated [~~purchasing single process with the publicly funded~~
18 ~~health care agencies~~] purchase. "

19 Section 26. Section 13-7-6 NMSA 1978 (being Laws 2001,
20 Chapter 351, Section 2) is amended to read:

21 "13-7-6. USE OF SOCIAL SECURITY NUMBERS. -- The [~~publicly~~
22 ~~funded health care agencies~~] authority, political subdivisions
23 and other persons providing health care benefits through [the] a
24 consolidated [~~purchasing single process~~] purchase of health care
25 benefits, in compliance with state and federal law, shall not

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1 require the use of participants' social security numbers as
2 health care benefit plan identification numbers. "

3 Section 27. Section 22-29-1 NMSA 1978 (being Laws 1986,
4 Chapter 94, Section 1) is amended to read:

5 "22-29-1. SHORT TITLE. -- [~~This act~~] Chapter 22, Article 29
6 NMSA 1978 may be cited as the "Public School Insurance Authority
7 Act". "

8 Section 28. Section 22-29-2 NMSA 1978 (being Laws 1986,
9 Chapter 94, Section 2) is amended to read:

10 "22-29-2. PURPOSE OF ACT. -- The purpose of the Public
11 School Insurance Authority Act is to provide [~~comprehensive core~~
12 ~~insurance~~] risk-related coverage programs for all participating
13 public schools, school board members, school board retirees and
14 public school employees and retirees by expanding the pool of
15 subscribers to maximize cost containment opportunities for
16 required insurance coverage. "

17 Section 29. Section 22-29-3 NMSA 1978 (being Laws 1986,
18 Chapter 94, Section 3, as amended) is amended to read:

19 "22-29-3. DEFINITIONS. -- As used in the Public School
20 Insurance Authority Act:

21 A. "authority" means the public school insurance
22 authority;

23 B. "board" means the board of directors of the
24 public school insurance authority;

25 C. "charter school" means a school organized as a

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1 charter school pursuant to the provisions of the 1999 Charter
2 Schools Act;

3 D. "director" means the director of the public
4 school insurance authority;

5 E. "educational entities" means state educational
6 institutions as enumerated in Article 12, Section 11 of the
7 constitution of New Mexico and other state diploma, degree-
8 granting and certificate-granting post-secondary educational
9 institutions and regional education cooperatives;

10 F. "fund" means the public school insurance fund;

11 ~~G. "group health insurance" means coverage that~~
12 ~~includes life insurance, accidental death and dismemberment,~~
13 ~~medical care and treatment, dental care, eye care and other~~
14 ~~coverages as determined by the authority;~~

15 ~~H.]~~ G. "risk-related coverage" means coverage that
16 includes property and casualty, general liability, auto and
17 fleet, workers' compensation and other casualty insurance; and

18 ~~[F.]~~ H. "school district" means a school district as
19 defined in Subsection K of Section 22-1-2 NMSA 1978, excluding
20 any school district with a student enrollment in excess of sixty
21 thousand students. "

22 Section 30. Section 22-29-4 NMSA 1978 (being Laws 1986,
23 Chapter 94, Section 4) is amended to read:

24 "22-29-4. AUTHORITY CREATED. --

25 A. There is created the "public school insurance

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1 authority" which is established to provide for [~~group health~~
2 ~~insurance and other~~] risk-related coverage with the exception of
3 the mandatory coverage provided by the risk management division
4 on the effective date of the Public School Insurance Authority
5 Act.

6 B. Health care benefits coverage shall be purchased
7 for all school districts, regardless of student enrollment,
8 pursuant to the Health Care Purchasing Act."

9 Section 31. Section 22-29-5 NMSA 1978 (being Laws 1986,
10 Chapter 94, Section 5, as amended) is amended to read:

11 "22-29-5. BOARD CREATED-- MEMBERSHIP-- DUTIES. --

12 A. There is created the "board of directors of the
13 public school insurance authority". The board shall be composed
14 of [~~nine~~] eleven members, consisting of the following:

15 (1) one member to be selected by the [~~state~~
16 ~~board of~~] public education department;

17 (2) one school business official to be
18 selected by the New Mexico school administrators;

19 (3) one board member of the New Mexico school
20 boards association to be selected by the association;

21 (4) one superintendent to be selected by the
22 New Mexico superintendents' association;

23 (5) three members to be selected by the New
24 Mexico national education association and the New Mexico
25 federation of teachers with the intent that representation be

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1 proportional to their respective membership; provided that each
2 of these three members be currently employed as public school
3 teachers employed by participating entities;

4 (6) one member to be selected by the board
5 from lists submitted by the participating educational entities;
6 and

7 (7) three members to be appointed by and serve
8 at the pleasure of the governor. Such members shall not be
9 employed by or on behalf of or be contracting with an employer
10 participating in or eligible to participate in the public school
11 insurance authority.

12 B. Each member of the board shall serve at the
13 pleasure of the party by which he has been appointed for a term
14 not to exceed three years. Any board member who has been
15 appointed and who misses four meetings of the board during a
16 fiscal year shall be replaced and shall forfeit his position on
17 the board, and his replacement shall be made by the organization
18 affected. The board shall set minimum terms of appointment and
19 shall elect from its membership a president, vice president and
20 secretary.

21 C. The board has the authority to hire a director
22 and appoint such other officers and employees as it may deem
23 necessary and has the authority to contract with consultants or
24 other professional persons or firms as may be necessary to carry
25 out the provisions of the Public School Insurance Authority Act.

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1 ~~[The board has the authority to provide for its full- and part-~~
2 ~~time employees, as it deems necessary, employee benefits~~
3 ~~insurance on the same basis as a member public school district~~
4 ~~may provide such employee benefits. In addition]~~ The board has
5 the authority to provide to members of the board and the
6 employees risk coverages of the same scope and limitations as
7 are allowed its member school districts to be provided to their
8 local school boards. The board has the authority to provide
9 employees an irrevocable option of qualifying for coverage under
10 either the Educational Retirement Act or the Public Employees
11 Retirement Act.

12 D. The members of the board shall receive per diem
13 and mileage as provided in the Per Diem and Mileage Act, but
14 shall receive no other compensation, perquisite or allowance."

15 Section 32. Section 22-29-6 NMSA 1978 (being Laws 1986,
16 Chapter 94, Section 6, as amended) is amended to read:

17 "22-29-6. FUND CREATED-- BUDGET REVIEW-- PREMIUMS. --

18 A. There is created the "public school insurance
19 fund". All income earned on the fund shall be credited to the
20 fund. The fund is appropriated to the authority to carry out
21 the provisions of the Public School Insurance Authority Act.
22 Any money remaining in the fund at the end of each fiscal year
23 shall not revert to the general fund.

24 B. The board shall determine which money in the fund
25 constitutes the long-term reserves of the authority. The state

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1 investment officer shall invest the long-term reserves of the
2 authority in accordance with the provisions of Sections 6-8-1
3 through 6-8-16 NMSA 1978. The state treasurer shall invest the
4 money in the fund that does not constitute the long-term
5 reserves of the fund in accordance with the applicable
6 provisions of Chapter 6, Article 10 NMSA 1978.

7 C. All appropriations shall be subject to budget
8 review through the [~~department of~~] public education department,
9 the state budget division of the department of finance and
10 administration and the legislative finance committee.

11 D. The authority shall provide that premiums are
12 collected from school districts and charter schools
13 participating in the authority sufficient to provide the
14 required [~~insurance~~] risk-related coverage and to pay the
15 expenses of the authority. All premiums shall be credited to
16 the fund.

17 E. Any reserves remaining at the termination of [~~an~~
18 ~~insurance~~] a contract for risk-related coverage shall be
19 disbursed to the individual school districts, charter schools
20 and other participating entities on a pro rata basis.

21 F. Disbursements from the fund for purposes other
22 than procuring and paying for [~~insurance or insurance-related~~]
23 risk-related coverage services, including [~~but not limited to~~]
24 third-party administration, premiums, claims and cost
25 containment activities, shall be made only upon warrant drawn by

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1 the secretary of finance and administration pursuant to vouchers
2 signed by the director or his designee; provided that the
3 chairman of the board may sign vouchers if the position of
4 director is vacant. "

5 Section 33. Section 22-29-7 NMSA 1978 (being Laws 1986,
6 Chapter 94, Section 7, as amended) is amended to read:

7 "22-29-7. AUTHORITY--DUTIES.--In order to effectuate the
8 purposes of the Public School Insurance Authority Act, the
9 authority has the power to:

10 A. enter into professional services and consulting
11 contracts or agreements as necessary;

12 B. collect money and provide for the investment of
13 the fund;

14 C. collect all current and historical claims and
15 financial information necessary for effective procurement of
16 lines of [~~insurance~~] risk-related coverage;

17 D. promulgate necessary rules, regulations and
18 procedures for implementation of the Public School Insurance
19 Authority Act;

20 E. negotiate new insurance policies covering
21 additional or lesser benefits as determined appropriate by the
22 authority, but the authority shall maintain all coverage levels
23 required by federal and state law for each participating member.
24 In the event it is practical to wholly self-insure a particular
25 line of coverage, the authority may do so;

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1 F. procure lines of [~~insurance~~] risk-related
2 coverage in compliance with the [~~provisions of the Health Care~~
3 ~~Purchasing Act and the~~] competitive sealed proposal process of
4 the Procurement Code provided that any [~~group medical insurance~~]
5 risk-related coverage plan offered pursuant to this section
6 shall include effective cost-containment measures to control the
7 growth of health care costs. The board shall report annually by
8 September 1 to appropriate interim legislative committees on the
9 effectiveness of the cost-containment measures required by this
10 subsection; and

11 G. purchase, renovate, equip and furnish a building
12 for the board."

13 Section 34. Section 22-29-9 NMSA 1978 (being Laws 1986,
14 Chapter 94, Section 9, as amended) is amended to read:

15 "22-29-9. PARTICIPATION--WAIVERS.--

16 A. School districts and charter schools shall
17 participate in the authority, unless the school district or
18 charter school is granted a waiver by the board.

19 B. In determining whether a waiver should be
20 granted, the board shall establish ~~minimum~~ benefit and financial
21 standards for the desired line of risk-related coverage. These
22 ~~minimum~~ benefit and financial standards and the proposed time
23 schedule for responsive offers shall be sent to all school
24 districts and charter schools at the time the request for
25 proposals for the desired line of coverage is issued. Any

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1 school district or charter school seeking a waiver of risk-
2 related coverage shall match the minimum benefit and financial
3 standards set forth in the request for proposals for the desired
4 line of risk-related coverage. School districts and charter
5 schools shall submit documentation of their proposals matching
6 the board's minimum benefit and financial requirements prior to
7 the deadline established by the board. The authority has the
8 power to approve or disapprove a waiver of participation based
9 on the documentation submitted by the school district or charter
10 school regarding the benefit and financial standards established
11 by the board. The board shall grant a waiver to a school
12 district or charter school that requests a waiver and that has
13 met the minimum benefit and financial standards within the time
14 schedule established by the board. Once the board awards the
15 [insurance] contract for risk-related coverage, no school
16 district or charter school shall be granted a waiver for the
17 entire term of the contract.

18 C. ~~[Any school district or charter school granted a~~
19 ~~waiver of participation for health insurance shall be required~~
20 ~~to petition for participation in other kinds of group insurance~~
21 ~~coverage and shall be required to meet the requirements~~
22 ~~established by the authority prior to participation in other~~
23 ~~kinds of group insurance coverage.]~~ A school district or charter
24 school ~~[which has been]~~ that was granted a waiver prior to July
25 1, 2004 shall be prohibited from participating in the risk-

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1 related coverage for which a waiver was granted for the entire
2 term of the authority's [~~insurance~~] contract for risk-related
3 coverage. If the authority contracts for a line or lines of
4 risk-related coverage for a period of eight years, the board may
5 establish procedures and preconditions for authorizing a school
6 district or charter school [~~which has been~~] that was granted a
7 waiver prior to July 1, 2004 to again participate in the risk-
8 related coverage after the expiration of the first four years of
9 risk-related coverage.

10 D. Any school district or charter school granted a
11 waiver of participation for workers' compensation shall be
12 required to petition for participation in other risk-related
13 coverages and shall be required to meet the requirements
14 established by the authority prior to participation in other
15 kinds of risk-related coverages. A school district or charter
16 school [~~which~~] that has been granted a waiver shall be
17 prohibited from participating in the risk-related coverage for
18 which a waiver was granted for the entire term of the
19 authority's [~~insurance~~] contract for risk-related coverage.

20 E. Educational entities may petition the authority
21 for permission to participate in the [~~insurance~~] risk-related
22 coverage provided by the authority. To protect the stability of
23 the fund, the authority shall establish reasonable terms and
24 conditions for participation by educational entities.

25 F. A participating school district or charter school

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1 may separately provide for coverage additional to that offered
2 by the authority.

3 G. The local school districts, charter schools or
4 the authority, as appropriate, may provide for marketing and
5 servicing to be done by licensed insurance agents or brokers who
6 should receive reasonable compensation for their services. "

7 Section 35. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
8 PROPERTY, CONTRACTS AND REFERENCES IN LAW. --

9 A. On the effective date of this 2004 act, all
10 appropriations, money, records, equipment, supplies and other
11 property of the retiree health care authority and its board
12 shall be transferred to the general services department.

13 B. On the effective date of this 2004 act, all
14 appropriations, money, records, equipment, supplies and other
15 property of the public school insurance authority relating to
16 group insurance shall be transferred to the general services
17 department; provided that the real property occupied by the
18 public school insurance authority and the appropriations, money,
19 records, equipment, supplies and other property of the public
20 school insurance authority relating to risk-related coverage
21 shall not be transferred.

22 C. On the effective date of this 2004 act, all
23 appropriations, money, records, equipment, supplies and other
24 property of a school district with enrollment greater than sixty
25 thousand students relating to health care benefits as defined in

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1 the Health Care Purchasing Act shall be transferred to the
2 general services department.

3 D. On the effective date of this 2004 act, all
4 appropriations, money, records, equipment, supplies and other
5 property of the group benefits committee shall be transferred to
6 the general services department.

7 E. On the effective date of this 2004 act, the
8 following personnel shall be transferred to the general services
9 department, as needed for transition and ongoing operation and
10 administration:

11 (1) classified personnel of the retiree health
12 care authority;

13 (2) classified personnel of the public school
14 insurance authority, relating to group insurance; and

15 (3) classified personnel of the group benefits
16 committee.

17 F. On the effective date of this 2004 act, the
18 general services department and a school district with
19 enrollment greater than sixty thousand students shall enter into
20 a joint powers agreement to transfer the classified personnel of
21 the affected school district to the general services department.

22 G. The state personnel office shall work with state
23 agencies to assist those public employees displaced by the
24 consolidation provisions of the Health Care Purchasing Act in
25 obtaining comparable employment.

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1 H. On the effective date of this 2004 act, all
2 contracts of the retiree health care authority, the group
3 benefits committee, the public school insurance authority as
4 they pertain to group insurance and any school district with
5 enrollment greater than sixty thousand students as they pertain
6 to health care benefits as defined in the Health Care Purchasing
7 Act shall be binding and effective on the general services
8 department. The health care purchasing authority shall not
9 renegotiate contracts in existence as of June 30, 2004 that, as
10 a result of this 2004 act, would increase the premium rates for
11 participants.

12 I. On the effective date of this 2004 act, all
13 references in law to the retiree health care authority, the
14 group benefits committee, the public school insurance authority
15 as they pertain to group insurance and any school district with
16 enrollment greater than sixty thousand students as they pertain
17 to health care benefits as defined in the Health Care Purchasing
18 Act shall be deemed to be references to the general services
19 department or the health care purchasing authority, as
20 appropriate.

21 Section 36. TEMPORARY PROVISION--TRANSITION PERIOD.--On
22 the effective date of this 2004 act, appropriate steps shall be
23 taken to ensure a transition that provides uninterrupted health
24 care access, delivery, financing and customer service,
25 including:

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1 A. a separate joint powers agreement shall be in
2 effect no later than June 1, 2004 between the general services
3 department and each public body affected by the consolidation
4 pursuant to this 2004 act;

5 B. continued applicability of existing rules of each
6 public body affected by the consolidation pursuant to this 2004
7 act until the health care purchasing authority has adopted new,
8 replacement or revised rules;

9 C. a transition plan between the general services
10 department and each public body affected by the consolidation
11 pursuant to this act shall be in effect no later than June 1,
12 2004 that includes communications to affected employees and
13 participants, an implementation schedule, methods for transition
14 and transfer of property, personnel, contracts and other
15 programs and services. Each plan shall provide for transition
16 and planning meetings between and among the general services
17 department, the group benefits committee, the board of the
18 retiree health care authority, the retiree health care
19 authority, the board of directors of the public school insurance
20 authority, the public school insurance authority and the
21 governing body and the administrative organization relating to
22 health care benefits of a school district with student
23 enrollment greater than sixty thousand students to ensure the
24 appropriate transfer of property, personnel, contracts and other
25 items or services to be consolidated pursuant to the Health Care

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1 Purchasing Act; provided that the transition plan may include
2 actions to be taken before or after June 30, 2004 but no later
3 than June 30, 2005; provided further that the appropriations and
4 money shall be transferred and under the control of the general
5 services department on July 1, 2004;

6 D. allowing the general services department to
7 assess and assume responsibility for the information technology
8 systems and resources of the retiree health care authority, the
9 public school insurance authority, the group benefits committee
10 and a school district with enrollment greater than sixty
11 thousand students; provided that, notwithstanding the provisions
12 of Section 15-1C-7 NMSA 1978, the general services department
13 may proceed with transition and set-up of information technology
14 systems and resources in consultation and collaboration with the
15 office of the chief information officer; and

16 E. ensuring that the level of customer service for
17 public employees, retirees and dependents is maintained or
18 exceeded during the transition period.

19 Section 37. TEMPORARY PROVISION--VOLUNTARY PURCHASE BY
20 PRIVATE EMPLOYERS OR INDIVIDUALS.--

21 A. The health care purchasing authority shall
22 determine, by December 31, 2005, methods to permit private
23 employers or individuals to voluntarily purchase, as established
24 through actuarially based rates, health care benefits coverage
25 afforded by the authority, taking into consideration the results

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1 of studies and recommendations of the legislative health and
2 human services committee and the study conducted by the human
3 services department and the New Mexico health policy commission,
4 with the cooperation of the insurance division of the public
5 regulation commission and the general services department, and
6 assessing the potential effects and methods of authorizing
7 businesses and individuals to join a public health insurance
8 purchasing collaborative.

9 B. The health care purchasing authority shall only
10 permit voluntary purchase of health care benefits by private
11 employers or individuals if:

12 (1) the employer has not offered health care
13 benefits coverage to its employees for a period of at least
14 twelve months prior to enrollment in the coverage afforded by
15 the authority; or

16 (2) the individual has not had health care
17 benefits coverage for at least six months and has lived in the
18 state for at least twelve months prior to enrollment in the
19 coverage afforded by the authority; provided that the individual
20 is ineligible if he has declined similar coverage under a plan
21 or policy offered through or by his employer or through a
22 government-sponsored program other than one developed pursuant
23 to the Health Care Purchasing Act.

24 C. The health care purchasing authority shall adopt
25 rules pursuant to the Administrative Procedures Act to determine

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underscored material = new
[bracketed material] = delete

1 and establish eligibility and enrollment for private employers
2 and individuals as described in Subsections A and B of this
3 section.

4 Section 38. TEMPORARY PROVISION--RECOMPILATION
5 INSTRUCTIONS.--Sections 10-7C-17 through 10-7C-19 NMSA 1978
6 (being Laws 2002, Chapter 75, Sections 2 through 4 and Laws
7 2002, Chapter 80, Sections 2 through 4, as amended) are
8 recompiled as part of the Health Care Purchasing Act.

9 Section 39. REPEAL.--Sections 10-7B-3, 10-7B-4, 10-7B-7,
10 10-7B-8, 10-7C-5 through 10-7C-8, 10-7C-10, 10-7C-11, 10-7C-14,
11 10-7C-16, 13-7-7 and 22-29-10 NMSA 1978 (being Laws 1989,
12 Chapter 231, Sections 3, 4, 7 and 8, Laws 1990, Chapter 6,
13 Sections 5, 6 and 7, Laws 2000, Chapter 79, Sections 1 and 2,
14 Laws 1990, Chapter 6, Sections 8, 10, 11, 14 and 16, Laws 2001,
15 Chapter 351, Section 3 and Laws 1989, Chapter 373, Section 5, as
16 amended) are repealed.

17 Section 40. SEVERABILITY.--If any part or application of
18 this act is held invalid, the remainder or its application to
19 other situations or persons shall not be affected.